



PUBLIC NOTICE

Federal Communications Commission
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**COMMENT SOUGHT ON PENNSYLVANIA PUBLIC UTILITY COMMISSION PETITION
FOR RECONSIDERATION OF THE COMMISSION'S TRACFONE MODIFICATION AND
VIRGIN MOBILE FORBEARANCE ORDERS**

CC Docket No. 96-45

Comment Date: June 5, 2009

Reply Comment Date: June 22, 2009

On April 3, 2009, the Pennsylvania Public Utility Commission (Pennsylvania PUC) made a filing seeking reconsideration or clarification of the Commission's *TracFone Modification Order* and *Virgin Mobile Forbearance Order*.¹ The Commission's *TracFone Modification Order* allows TracFone Wireless, Inc. (TracFone) to comply with certain conditions imposed on its designation as a limited eligible telecommunications carrier by self-certifying that it meets the basic and E911 requirements if, within 90 days of TracFone's request for certification, a public safety answering point (PSAP) does not provide the certification and the PSAP has not made an affirmative finding that TracFone does not provide its customers with access to 911 and E911 service within the PSAP's service area.² The Commission's *Virgin Mobile Forbearance Order* provides similar relief to Virgin Mobile.³ The Pennsylvania PUC seeks reconsideration of these orders.⁴

In the alternative, the Pennsylvania PUC requests that the Commission clarify the procedures for implementing the *TracFone Modification Order* and *Virgin Mobile Forbearance Order*.⁵ Specifically, the Pennsylvania PUC requests the Commission to clarify that: 1) the trigger for the 90-day period after which a wireless carrier may self-certify is submission to the PSAP of a "complete as filed" request containing both information and handsets; 2) the 90-day self-certification provision is not available to the

¹ Pennsylvania Public Utility Commission, Motion for Reconsideration, CC Docket No. 96-45 (filed Apr. 3, 2009) (Pennsylvania Petition); *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc.*, CC Docket No. 96-45, Order, 24 FCC Rcd 3375 (2009) (*TracFone Modification Order*); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*).

² See *TracFone Modification Order*, 24 FCC Rcd at 3376, para. 1.

³ See *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3387, para. 12.

⁴ Pennsylvania Petition at 3.

⁵ *Id.* at 4.

carriers until any appeals or requests for reconsideration of the orders are completed; 3) the carriers must submit to PSAPs specified information, including certifications from both the carrier and the owner of the underlying facilities;⁶ and 4) the statements in the *Virgin Mobile Forbearance Order* at footnote 66 also apply to TracFone and any similarly-situated carrier.⁷

Interested parties may file **comments on or before June 5, 2009**, and **reply comments on or before June 22, 2009**. All pleadings are to reference **CC Docket No. 96-45**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.⁸

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East

⁶ According to the Pennsylvania PUC, the wireless reseller carrier should certify to the PSAP that the listed underlying facilities-based wireless carrier used by the reseller in that PSAP's area can deliver or transmit 911 and E911. In addition, the Pennsylvania PUC argues that an additional certification should be provided from the owner of the physical facilities that the wireless carrier is relying on to transmit or deliver 911 and E911. *See* Pennsylvania Petition at 5.

⁷ *See* Pennsylvania Petition at 4-5. Footnote 66 in the *Virgin Mobile Forbearance Order* states that "[w]e recognize that, as a practical matter, if Virgin Mobile's underlying facilities-based licensee has not deployed the facilities necessary to deliver E911 information to the appropriate PSAP, Virgin Mobile will not be able to offer Lifeline-supported service to customers residing in that area." *See Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390, para. 22 n.66.

⁸ *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

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In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Carol Pomponio, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B530, Washington, D.C. 20554; e-mail: Carol.Pomponio@fcc.gov; and
- (3) Antoinette Stevens, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B521, Washington, D.C. 20554; e-mail: Antoinette.Stevens@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹⁰ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.¹¹

For further information, please contact Carol Pomponio, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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⁹ 47 C.F.R. §§ 1.1200 *et seq.*

¹⁰ *See* 47 C.F.R. § 1.1206(b)(2).

¹¹ 47 C.F.R. § 1.1206(b).